UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX

THE UNIONTOWN HOSPITAL

Employer

and

Case 6-RC-11721

THE UNIONTOWN HOSPITAL TECHNICAL EMPLOYEES ASSOCIATION/PENNSYLVANIA STATE EDUCATION ASSOCIATION HEALTH CARE[1]

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act,[2] a hearing was held before John Michael Johnson, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.[3]

Upon the entire record[4] in this case, the Regional Director finds:

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[1] The names of the Employer and the Petitioner appear as amended at the hearing.

[2] On August 20, 1999, this case was consolidated with Case 6-RC-11726 involving the Employer and International Brotherhood of Teamsters, Local Union No. 491, AFL-CIO. On September 2, 1999, the undersigned issued an Order Severing Case 6-RC-11726 because the parties thereto entered into a Stipulated Election Agreement.

[3] Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 l4th Street, N.W., Washington, D.C. 20570-000l. This request must be received by the Board in Washington by October 15, 1999.

[4] The Employer and the Petitioner filed timely briefs in this matter which have been duly considered by the undersigned.

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(I) and Section 2(6) and (7) of the Act.

As amended at the hearing, the Petitioner seeks to represent a unit of all full-time and regular part-time technical employees employed by the Employer at its Uniontown, Pennsylvania, facility, including pharmacy technicians, anesthesia technologists, cardiac sonographers, licensed practical nurses, respiratory care therapists, technologist I, technologist II, histotechnologists, cytotechnologists, medical technologists, central sterile technicians, certified occupational therapy assistants and physical therapy assistants, excluding office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees. While the Employer does not dispute that the above-described unit comprises an appropriate unit within the Board's final rule on collective-bargaining units in the health care industry (hereinafter "the Rule")[5] the Employer, contrary to the Petitioner, contends that the histotechnologists, cytotechnologist and medical technologists should be excluded from the unit on the ground that they are professional employees. There are approximately 100 employees in the petitioned-for unit. There is no history of collective bargaining for any of the employees involved herein.

[5] The Rule is set forth at 29 CFR Part 103, 54 Federal Register No. 76, pp 16347-16348, 284 NLRB 1579, 1596-1597 (1989), approved by the Supreme Court in American Hospital Association v. NLRB, 499 U.S. 606, 111 S.Ct. 1539 (1991).

The Employer, a Pennsylvania corporation, is engaged in the operation of a 210 bed acute care community hospital at its Uniontown, Pennsylvania, facility. The Employer's facility is a six story building located on 8 acres. Five of the six floors, floors two through six, are designated as in-patient units, surgical units and out-patient and in-patient testing. The non-patient floor is located on the main floor where the administrative offices, emergency room, cafeteria, store room and support areas, including the laboratory, are located.

The President and Chief Executive Officer of the Employer is Paul Bacharach. Reporting to Bacharach are several Vice-Presidents, including Vice-President of Operations Gary Macioce, Vice-President of Patient Care Services Becky Ambrosini, Chief Financial Officer Steve Handy, and Vice-President Human Resources Jim Proud.[6]

The laboratory consists of five clinical areas: blood bank, microbiology, chemistry, hematology/urinalysis, and histology/cytology. The laboratory is under the overall direction of Medical Director Stephen Wachtel and Administrative Director Becky Volk and is staffed with a general supervisor and five section supervisors, 32 medical technologists, four histotechnologists, one cytotechnologist, nine phlebotomists, 12 clerk lab assistants, two transcriptionists, two pathologists and an administrative secretary.

The staffing of the medical technologists is as follows. On dayshift there are two to three medical technologists working the blood bank, seven medical technologists working in chemistry, five medical technologists working in hematology/urinalysis, five medical technologists working in microbiology and four in histology/cytology. On the afternoon shift, one medical technologist covers the blood bank and three medical technologists cover the other

[6] The parties have stipulated, and I find, that Bacharach, Macioce, Ambrosini, Handy and Proud are supervisors within the meaning of Section 2(11) of the Act inasmuch as they possess the authority to hire, fire, discipline and direct the workforce. The parties further stipulated, and I find, that the Associate Nurse Executive, all Department Directors, Team Leaders in the Telemetry Care, Family Beg. Birthing Center, Surgical Suite, Digestive Health Center, Emergency Services, and Central Sterile areas, Lead Respiratory Therapist, Supervisor Patient Care Management, General Supervisor, Laboratory Section Supervisors, Chief Radiological Technician, Supervisor Anesthesiology, Supervisor Nutrition Services, Supervisor Housekeeping, Supervisor Laundry and Manager of Human Resources are supervisors within the meaning of the Act inasmuch as they possess one or more of the indicia enumerated in Section 2(11) of the Act.

areas, excluding histology/cytology. On the night shift there are two medical technologists on duty working in all areas excluding histology/cytology. The laboratory is an open area with islands separating the various departments.

The record reveals that under governmental standards, laboratories are classified as performing moderate, complex analysis and highly complex analysis. The Employer's laboratory is classified as performing highly complex analysis because it performs all types of testing including electrophoresis, protein analyses, blood banking and various microbiology testing.[7] Laboratories with the "highly complex" designation are regulated by state and federal governmental agencies which require that employers who operate a highly complex laboratory employ only registered medical technologists. The Employer's laboratory is also accredited by both the American Association of Blood Banks and by the College of American Pathologists. To achieve this accreditation, the Employer is likewise required to employ only registered medical technologists.

As noted previously, the Employer contends, contrary to the Petitioner, that the job classifications of histotechnologist, cytotechnologist and medical technologist must be excluded from the unit petitioned for herein on the basis that the employees in these classifications are professional employees.

Blood Bank

In the Blood Bank, medical technologists perform tests on blood samples. Generally, the actually sample is drawn by the phlebotomists. [8] The samples drawn are brought to the blood bank.

[7] The record further establishes that 50 percent of the work with which the microbiology department is involved is highly complex analysis and approximately 25 percent is moderate or complex analysis. The remaining 25 percent of the testing is classified as exempt or waived, meaning a lesser degree of skill is required to interpret the results. All of the microbiology medical technologists perform tests in all three levels.

[8] The record indicates that the two to three medical technologists working on dayshift perform the phlebotomy function of drawing blood for about 2 hours beginning at 5:00 a.m. to 5:30 a.m., during the morning medical rounds. However, no other employees perform the functions of the medical technologist.

Once the sample is received, the medical technologist visually assesses the sample to determine whether the amount is adequate for the tests ordered, and to determine whether the tubing is proper or if clotting has occurred. One of the other primary functions performed by the medical technologist in the area is to type and screen[9] the blood to determine whether the blood is compatible with any of the blood in the Employer's supply. When the testing ordered requires serum, the medical technologist will spin the blood in a centrifuge to separate the serum from the blood cells. The medical technologist then determines whether the serum is clear.[10] If necessary, the medical technologist will request that the phlebotomists draw another specimen.

The tests performed by the medical technologist in the blood bank are manually performed with the exception of the use of a cell washer.[11] After cell washing, the medical technologist interprets the cells to determine a final cross match. At times the medical technologist will examine the cells under a microscope and may choose to add reagents,[12] which are chemicals to be mixed with the specimen to achieve a certain reaction needed in order to make a final determination. The medical technologist will determine whether the result is positive or negative. The medical technologist also determine whether a test should be rerun.

When the test result for a test which the technologist performs is outside the established normal range[13] the technologist determines whether there was a problem with the specimen, reagent or the instrument. When the medical technologist determines that the blood is a match, the physician or nursing unit is notified that the units of blood are ready for transfusion.

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[9] Typing determines the patients' blood type. Screening determines the antibodies in the blood necessary for a compatible cross match.

[10] The record reveals that five to ten percent of the samples are lypemic (meaning milky in color), hemolyzed or jaundiced.

[11] Cell washing is a process whereby cells for the patient and the donor are washed through a saline solution and spun.

[12] The medical technologist must utilize the appropriate reagent for the test which is being performed.

[13] This result is referred to as a "panic value".

Microbiology

Twelve medical technologists work within the microbiology department. In this department, the medical technologist tests blood or other bodily fluids, such as sputum, urine, stool, spinal fluid and fungus cultures to identify organisms causing infection and to determine which antibiotics should be prescribed for treatment. Most of the test specimens are drawn by the phlebotomists and delivered to the lab.

Initially, the medical technologist in this section visually interprets the sample for quality and quantity. If a specimen does not meet quality standards because it is contaminated, the medical technologist can request another specimen. Assuming the specimen is viable, the medical technologist initially performs a process known as "planting a culture", which involves putting a portion of the specimen on a microbiologic media,[14] placing the media in an incubator at a temperature of 37 degrees Celsius to simulate the temperature of the human body. After the appropriate number of hours, which is usually within 24 hours, the medical technologist will retrieve the media from the incubator and pick off a colony of bacteria[15] using a needle type instrument to perform a gram stain smear.[16] When the result is positive, the medical technologist is required to perform a further series of tests. The record indicates that the medical technologist decides which further testing to perform based on his or her assessment of the first test. The further testing is usually manually performed and entails placing a bacteria on a filtered paper, adding reagents and checking the result.

[14] A media is a disc or plate with food which supports the growth of bacteria.

[15] The medical technologist is trained to differentiate between normal flora and bacterial pathogens.

[16] The gram stain smear involves applying the bacteria colony to a glass slide, drying it, and applying a stain. When viewed under a microscope, rods or cocci will appear signifying a negative result in the first instance and a positive result in the second instance.

If the results of the gram stain smear show unfamiliar bacteria, or are inconclusive, the medical technologist consults with a physician after performing multiple manual tests and consulting with other medical technologists, on whether the specimen should be sent to a reference lab.[17] The medical technologist also consults with the physician when a highly resistant bacteria is present.

Once the medical technologist makes a final finding as to the identity of a particular organism, the medical technologist will input the result into the laboratory computer which prints out at the nurses' station or physician's office. The computer report will include a list of drugs to which the bacteria is sensitive or resistant.

In the microbiology area the medical technologist utilizes equipment such as the incubator, microscope, planting hoods and microscan machine.[18] All equipment must be checked on a daily basis by the medical technologist to maintain quality standards.

Chemistry

Medical technologists in the chemistry department test for chemical analytes in the blood or other bodily fluids. The medical technologist also tests glucose, cholesterol and electrolyte levels. The record establishes that these test results provide physicians with information necessary to prescribe treatment. For example, the medical technologist in this area performs prothrombin time tests for patients taking blood thinners such as coumidin or heparin. Based on test results, doctors will increase or decrease the patients' dosages.

The medical technologist in this department is responsible for daily calibration of instruments he or she uses including the centrifuge, Vietros 950 and Dupont-ACA.[19] The latter

[17] The Employer utilizes the Mayo Reference Lab in Rochester, Minnesota.

[18] The microscan machine is an automated machine which performs susceptibility testing. The machine apparently has 10 to 12 antibiotic discs which are streaked with a specimen. After an incubation period, the medical technologist determines whether the specimen is susceptible or resistant to the different antibiotics.

[19] The Vietros 950 is a machine that automatically produces the chemical profile for the 12 test and 8 test panels. The Dupont is used for drug studies.

two pieces of equipment users to undergo required training by the manufacturer. Two to three technologists attended this training, and they, in turn, trained the rest of the technologists in the department.

Hematology/Urinalysis

Medical technologists working in the Hematology/Urinalysis area perform such testing as the complete blood count ("CBC") which shows the white blood count to determine the presence of infection, and the CBC with a differential. In performing CBC with a differential, the medical technologist examines a blood smear after performing a staining process which helps to identify the type and number of cells to assess whether a patient has a blood condition such as leukemia or anemia. Before performing these tests, the medical technologist visually checks the blood to make sure the quantity is correct for the number of tests ordered and for the absence of any clot.[20] If the specimen is inadequate in any respect, the medical technologist can direct the phlebotomist to obtain another sample.

The equipment utilized by the medical technologist in this area includes the microscope and the coulter STKR machine.[21] As in other departments, the equipment must be sanitized and checked for quality control on a daily basis. All of the medical technologists have received specialized training to operate the coulter STKR machine. The record indicates that about 95 percent of the tests in the hematology area are performed using this machine. When the automated differential result is outside the normal range, the medical technologist must test the blood manually with the use of a microscope. The medical technologist reports any panic values to the physician or the nursing area after the report is reviewed and finalized. If the test

[20] Clotting of the blood could make the sample unusable. This determination as to the suitability of the sample is made by the medical technologist.

[21] The coulter STKR machine is an automated machine which mixes blood and determines the "gross count" of the hemoglobin, white blood cells and red blood cells in the blood.

was performed using the automated equipment, the medical technologist must review the results. Only then will the results be automatically generated to the appropriate patient areas.[22]

Histology/Cytology

The histotechnologists test tissue, biopsy or fluid specimens. In performing this function, the histotechnologist works directly with a pathologist in the department. Once a tissue specimen is received, the histotechnologist does a gross description of the specimen before making small cuts in the specimen. The cuts are performed with a pathologist to look for cancerous cells. Once the cuts are made, the histotechnologist then inserts cassettes into the cuts which remain there for 16 hours. At this point, the specimen can be processed by the tissue analyzer processor. The tissue is dried in alcohol and formaldehyde. When the cassettes are removed the specimen is embedded in a paraffin block and placed on a microtomb which cuts the tissue specimen in thin slices, or ribbons. The slices are then dried, stained and cover slipped. The histotechnologist reviews each slide under the microscope for quality before providing the slides to the pathologist for final diagnosis.

The cytology technologist prepares and reviews slides on both gynecological specimens such as pap smears and non-gynecological fluid specimens. The bulk of the cytotechnologist's work time is spent utilizing a microscope to determine if cancerous cells are present. If a positive result or suspicious cells are found the cytotechnologist is required by law to review these finds with the pathologist before generating the final report.

The record reveals that presently half of the medical technologists are cross-trained so that they can work in any area of the lab, except the histology/cytology department.[23] The Employer refers to the medical technologists who can work in several areas as "generalists", and plans to cross-train all medical technologists in the future.

[22] The coulter STKR is interfaced with the Employer's computer system.

[23] The histology technologists and the cytotechnologist are not cross-trained and work only in their own areas.

The Employer's educational requirements in hiring medical technologists can be fulfilled in one of three ways. A medical technologist must possess either a baccalaureate degree and be a registered or registry eligible medical technologist,[24] or an associate degree in medical technology or be licensed through completion of a LMT (Licensed Medical Technologist) program and be a registered or registry eligible medical technologist. The final way to fulfill the Employer's educational requirements is to be a medical technologist who was "grandfathered" under the Clinical Laboratory Improvement Act (CLIA) of 1967, and the 1988 amendment thereto. A technologist is grandfathered based on possessing the requisite number of years of experience and being registered.[25] At the present time, 15 of the 32 medical technologists employed by the Employer have a Bachelor of Science degree, five have an associate degree and 12 have either attended a two year laboratory school or received the required on-the-job training and were "grandfathered" pursuant to CLIA.

Histotechnologists must possess an associate degree and have passed the histotechnologist registry. The cytotechnologist is required to be licensed and certified by the ASCP. To be certified and licensed, the required education is presently a baccalaureate degree.

The record reveals that newly hired medical technologists must participate in the lab orientation program which lasts several weeks.[26] During this time, the Employer's testing procedures, quality control and preferred corrective actions are reviewed. The newly hired

[24] A registered medical technologist is one who has graduated from a bachelor or associate degree program, attended the required externship which is one year of schooling, and has passed the registry exam given by the American Society of Clinical Pathologists (ASCP). The record indicates that medical technologists can also be registered by the American Medical Technologists (AMT) or the National Certification Agency (NCA), both of which require a minimum of a two year associate degree. Registry eligible refers to a medical technologist with the requisite educational requirements who has not yet taken the registry test.

[25] Apparently, in the past, medical technologists were trained through on-the-job training. Congress recognized this practice with the passage of CLIA and the amendment thereto, but grandfathering is no longer permitted in this field.

[26] The record reveals that in the microbiology department the orientation lasts five weeks.

medical technologists are also required to undergo a competency test. All of the Employer's medical technologists, including histotechnologists and the cytotechnologist, must undergo an annual competency evaluation and become trained on various equipment.

The record establishes that the Employer has established pay grades pursuant to which hourly paid employees are paid. All of the Employer's medical technologists are hourly paid employees earning approximately $13 to $16 per hour. They are classified as non-exempt employees for purposes of the Fair Labor Standards Act. The record also establishes that the Employer also classifies its RNs, pharmacists, occupational therapists and physical therapists as non-exempt for purposes of the Fair Labor Standards Act. The record indicates that medical technologists are paid at a lower wage rate than RNs, pharmacists and occupational therapists, but at a higher wage rate than the employees in any of the technical job classifications in the unit petitioned for herein.[27].

Section 2(12)(a) of the Act defines professional employees as those engaged work that is:

> (i) predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment and its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes.

In determining the unit placement of medical technologists, the Board has established a rebuttable presumption that medical technologists are professional employees as defined in Section 2(12) of the Act. Group Health Association, Inc., 317 NLRB 238 (1995). This presumption can be rebutted by the party contending that the medical technologists at issue do not engage in the duties customarily assigned to the classification of medical technologists and

[27] The record does not reveal the pay grades or the wage rate ranges of the various job classifications, except that phlebotomists and clerk lab assistants earn between $8.00 and $11.00 per hour. Employees in these classifications need not be registered or certified.

therefore, do not meet the statutory definition of professional employee. For the reasons set forth below, I find that the Petitioner has failed to rebut the presumption.

The medical technologists at issue herein perform many of the duties which the medical technologists employed by Group Health Association performed. There, as here, medical technologists engaged in a wide array of laboratory testing on various patient samples employing principles of technology and science. In Group Health Association, hematology department, medical technologists performed tests on the coulter STKR machine and were responsible for calibrating the machine. Medical technologists also possessed knowledge of potential machine malfunctions to determine whether a given test result was a product of such a malfunction or an accurate result of the patient problem. Medical technologists could contact physicians if the "panic value" was detected. Medical technologists in the chemistry department performed blood and urine analyses, almost all of which were automated. Medical technologists prepared specimens. Tests were printed out with a numerical value on pre-printed forms to indicate the normal range of test results. In microbiology, medical technologists prepared specimens by inoculating selected cultivation media. After the requisite growth period, medical technologists read the specimen or performed reactivity tests to select the proper antibiotic for the patient. All microbiology testing was manually performed. Medical technologists relied on inspection of samples to determine test results on various media to determine the organisms' susceptibility to antibiotics.

The employer in Group Health Association, also operated seven "stat" labs where medical technologists were less specialized and who performed tests with a shorter turnaround time of one hour. The medical technologists in that setting regularly performed 12 to 15 procedures, but were capable of performing up to 25 procedures. Medical technologists in the stat labs calibrated the testing machines and equipment. They also performed minor repairs and quality control of calculations.

In determining that the presumption of professional status should be applied to medical technologists in that case, the Board noted that laboratory testing procedures, whether manual

or automated, are not readily standardized because of the unique characteristics of each sample specimen, and complex laboratory equipment and medical technology. The Board recognized that the testing of the same media of sample specimens on the same equipment often will differ from situation to situation.

In Illinois Valley Community Hospital, 261 NLRB 1048 (1982), the Board stated that the possession of a baccalaureate degree is not determinative of the professional status of employees. In Group Health Association, the Board noted that the educational requirements of medical technologists are becoming increasingly stringent. The Board further recognized that ASCP certification required that a medical technologist hold a baccalaureate degree with either a major in one of the physical sciences or the completion of a specific number of science courses and have completed three to five years of clinical experience or be trained in an accredited program.

In Group Health Association, the Board was convinced that the medical technologists met the requirements of sub-part (i) and (ii) of Section 2(12) of the Act, finding that despite increased automation in the medical technology field, the essentially intellectual nature of the work and the necessity for discretion and independent judgment in its performance had not been substantially eroded. The Board stated that even with automated testing, every test required some level of pre- and post-analysis, as well as the monitoring of equipment.

The Petitioner argues that the medical technologists herein do not engage in a number of duties assigned to medical technologists who have been found to be professional employees by the Board in the past. Contrary to this assertion, the medical technologists as issue herein engage in the vast majority of the duties assigned to the medical technologists considered by the Board in the developing the presumption that employees in this job classification are professional employees. Moreover, there is no requirement that medical technologists have supervisory functions to be found to be professional employees.

Furthermore, the Petitioner argues that because the Employer herein employs only medical technologists, and not medical technicians, the medical technologist position

incorporates many of the duties routinely performed by technicians at other hospitals. However, the Board's determination in Group Health Association did not rest on distinguishing medical technologists from medical technicians. Finally, the Board expressly addressed the proposition that because of automation, the discretion of medical technologists has been reduced and that automation has made the work less intellectual and more routine and mechanical. The Board found these assumptions to be invalid in the absence of evidence that the previously non-automated intellectual duties were taken over by the automated equipment. In addition, the existence of routines and protocols followed by the medical technologists did not persuade the Board that the intellectual nature of the medical technologists work was diminished. Rather, the Board noted that proper and accurate testing requires standard prescribed methodologies. The Board realized that medical technologists exercise independent judgment and discretion regarding how the testing is to be done. Thus, the Board concluded that the fundamental nature of the work performed by medical technologists is intellectual in nature and requires the constant exercise of independent judgment and discretion. See also St. Barnabas Hospital, 283 NLRB 472 (1987).

The Petitioner contends that the undersigned's determination in Case 6-RC-11504 that the medical laboratory technicians at Indiana Hospital were technical employees should control in this case because their duties are similar to the duties of the medical technologists at issue herein. However, at Indiana Hospital the one full-time and one part-time medical laboratory technicians were responsible for routine and moderately complex laboratory analyses. The one medical technologist at that laboratory performed complex analyses. The requirements for the medical laboratory technician position at that hospital were an associate degree in laboratory science or an related science and certification as a technician by a professional organization. In this case, 15 of 32 medical technologists possess a bachelor degree and five possess an associate degree. The balance have either completed a two year laboratory course or have been "grandfathered" under existing law. All are registered as medical technologists. As noted previously, the Employer's laboratory is classified as highly complex. In accordance with the

governmental standards accompanying this classification, the Employer employs only registered medical technologists.

I find that the facts of the instant case are analogous to the facts in Group Health Association. In so finding, I note that the medical technologists in the instant proceeding are required to be registered and must undergo an annual competency evaluation. I further note that the medical technologists at issue herein regularly exercise independent judgment during the performance of their duties by visually inspecting samples to determine whether testing is appropriate, and in determining whether and when to perform manual re-testing of specimens. For the reasons set forth above, I find that the Petitioner has failed to rebut the presumption that the medical technologists are professional employees.

Based on the record I find that the histotechnologists and the cytotechnologists are also professional employees within the meaning of Section 2(12)(a) of the Act and therefore should be excluded from the unit petitioned for herein. In so concluding, I note that employees in both of these classifications perform complicated testing procedures on tissue samples and other specimens to determine whether cancerous cells are present. These employees work closely with the department pathologist, to make the final diagnosis.

The histotechnologists' slides are the result of lengthy tissue processing which takes in excess of 16 hours to complete after which various staining and cover slipping processes must be performed. After reviewing the final slides under the microscope for quality, these slides are delivered to the pathologist.

The cytotechnologist also prepares and reviews slides of various bodily fluids including both gynecological pap smear slides and non-gynecological specimens. Like the histotechnologists, the cytotechnologist will then perform staining processes and examine the slides to determine if cancerous cells are present.

All histotechnologists must possess an associate degree and be registered.[28] Cytotechnologists are required to be licensed and certified by the ADCP.

In light of the foregoing, I find that the medical technologists, histotechnologists and the cytotechnologist are professional employees and I shall, therefore, in accordance with the principles of the Rule, exclude them from the bargaining unit.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time technical employees, including pharmacy technicians, anesthesia technologists, cardiac sonographers, licensed practical nurses, respiratory care technicians, respiratory therapists, technologists I, technologists II, central sterile technicians, certified occupational therapy assistants and physical therapy assistants, employed by the Employer at its Uniontown, Pennsylvania, facility; excluding office clerical employees and guards, professional employees including medical technologists, histotechnologists, and cytotechnologists, and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned Regional Director among the employees in the unit set forth above at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.[29] Eligible to vote are those employees in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because

[28] The record indicates that “some” of the histotechnologists were previously medical technologists who underwent additional training. The record does not reflect the exact number of histotechnologists who have the medical technologist background.

[29] Pursuant to Section l03.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to l2:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.[30] Those eligible shall vote whether or not they desire to be represented for collective bargaining by the The Uniontown Hospital Technical Employees Association/Pennsylvania State Education Association Health Care.

Dated at Pittsburgh, Pennsylvania, this 1st day of October 1999.

/s/ Gerald Kobell
Gerald Kobell
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

470-3300
470-3380

[30] In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc. 156 NLRB 1236 (l966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (l969). Accordingly, it is hereby directed that the election eligibility list, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, Room l50l, l000 Liberty Avenue, Pittsburgh, PA l5222, on or before October 8, 1999. No extension of time to file this list may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.